UNITED STATES DISTRICT COURT

A.S. Knight, General Delivery
Calicbnia, Panama City,
Republic of Panama, 0816

EASTERN DISTRICT OF NEW YORK
PRO SE OFFICE
U.S. COURTHOUSE
225 CADMAN PLAZA EAST
BROOKLYN, NEW YORK 11201

Date: October 29, 2009

Dear Litigant: Mr. Knight,

The Court's Pro Se Office received the enclosed papers on October 26, 2009. The papers are being returned to you for one or more of the following reasons checked below. Please read this list carefully to correct any mistakes or omissions in your papers. If you decide to proceed with your action, you must return the enclosed papers **WITHIN 14 DAYS FROM THE DATE OF THIS LETTER** for processing (**together with this letter**).

☐ Papers, including complaints, petitions, motions or any other document, cannot be filed without an original signature pursuant to Rule 11 of the Federal Rules of Civil Procedure. Your original signature is needed wherever an "X" appears.

☑ A filing fee of $350 [in cash if submitted in person] or by certified check or money order made payable to the Clerk of Court, U.S.D.C.,E.D.N.Y. is required in order to commence a civil action other than an application for a writ of habeas corpus. 28 U.S.C. § 1914. You may request to waive the filing fee by submitting an *in forma pauperis* application (also known as IFP). 28 U.S.C. § 1915. If you are a prisoner, you must also submit the Prisoner Authorization form along with the IFP application. An IFP and/or Prisoner Authorization form is enclosed.

☐ Each plaintiff named in the caption must sign the complaint and each plaintiff must submit a separate *in forma pauperis* (IFP) application and/or Prisoner Authorization form, if applicable.

☐ Your *in forma pauperis* (IFP) application does not contain enough information for the Court to consider your request. Please fill out the enclosed IFP application. If you are presently incarcerated, please complete the enclosed Prisoner Authorization form as well as the IFP application.

☑ Other: Kindly be advised a Motion for Permission to File is required to accept your new complaint. Please find the Memorandum & Order detailing this, our Court's In Forma Pauperis motion, and your original paperwork. When complete, please resubmit all paperwork back to the Court.

Sincerely,

Pro Se Writ Clerk
(718) 613-2665

Enclosure(s)

rev. 4//06

PROOF OF SERVICE

Said service was made by depositing the Complaint, Memorandum Of Law, and application for Forma Pauperis correctly addressed to:

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
225 CADMAN PLAZA
BROOKLYN, NEW YORK, 11201.

1 Original
1 Copy

Very truly yours

/S/

ALFONSO SPRINGER KNIGHT
General Delivery Calidonia
Panama City, The Republic of Panama
0816

--*"It's not one party's government. It's America's government. Those entrusted with great power have a duty to answer to Americans what they are doing," said Sen. Patrick Leaky of Vermont. (Buffalo Newspaper May 12, 2006 page A 2).*

CHANGE OF ADDRESS

I HEREBY REQUEST A CHANGE OF ADDRESS, TO CALIDONIA GENERAL DELLIVERY, PANAMA CITY, THE REPUBLIC OF PANAMA, 0816 WHICH IS THE CORRECT ADDRESS.

Oct. 13, 2009 /S/

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

----------x

ALFONSO SPRINGER KNIGHT,

Plaintiff, **WAIVER OF SERVICE**

-against-

Docket no.----------

THE PEOPLE OF CITY OF NEW YORK.

Respondents.

----------x

WAIVER OF THE SERVICE OF SUMMONS

ALFONSO SPRINGER KNIGHT.

I waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you. I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case. I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from , the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

THE PEOPLE OF THE CITY OF NEW YORK,

Respondents.

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COMPLAINT

Docket no.----------

1. STATEMENT OF JURISDICTION.

This is a civil action seeking relief and damages to defend and protect the rights guaranteed to the Constitution of the United States. This action is brought pursuant to 42 U.S.C. Section 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. Section 1331, 1343(3) and (4) and 2201.

2. PARTIES TO THIS ACTION

Plaintiff is: Alfonso Springer Knight,
mailing address: General Delivery, Calidonia
Panama City, The Republic of Panama. 0816
E Mail ASK.NIGHT@HOTMAIL.COM.

The Respondents: The People of The City of New York,
attorney is the Corporation Counsel, Michael Cardozo
located at, 120 Broadway,
New York, New York, 10005, Tel. no. 212 788 0303

3. FACTS

FIRST FELONY CLAIM

1. On April 15, 1974, the respondent (Supreme Court Appellate Division Second Department) determined that the ***plaintiff 3 year sentence of imprisonment was "excessive," and "modified" his judgment of conviction to time served in the "interest of justice."***

2. Plaintiff believes this judgment alleged by the respondents ***unconstitutionally denied him due process and equal protection of laws, prejudicial on the grounds that he had already served more than the time required by law when the trial court committed a reversible error by failing dismiss indictment with prejudice*** (Plaintiff's Exhibit A, See People v. Springer-Knight, 354 N.Y.S. 2d. 996).

3. The New York Court of Appeals claimed;

> ***"Appropriate remedy, where trial court committed reversible error in case in which defendant (or plaintiff) had already served his sentence, was order dismissing indictment*** (Plaintiff's Exhibit B, See People v. Flynn, 581 N.Y.S. 2d. 160, 161).

4. No purpose would be served by respondent's retrial for reversible error where plaintiff had already completed his sentence, and proper remedy was to reverse conviction and to dismiss information with prejudice.

SECOND FELONY CLAIM.

5. The respondents failed to dismiss the indictment (No. 6888/71) on April 15, 1974 and without fair warning, due process and equal protection of laws, they used the Newly Second Offender law, Penal Law 70.06 and CPL 400.21 which became effective September 1, 1973, effectively against the plaintiff in 1985 under the 1972 alleged conviction, and the Appellate Division Second Department failed to mentioned in their opinion on appeal that he was sentenced as a predicate offender which was part of the appeal a prejudicial error, and his sentence should have been considered, and corrected (Plaintiff's Exhibit "C" People v. Springer, 545 N.Y.S.2d 766 in Evidence herein, Please find a copy attached hereto.)

6 .This Court and the respondents here should agree that, the 1973 Second Offender ex post facto law was used unconstitutionally against the plaintiff denied him due process and equal protection of laws, since there was not any fair notice in 1971 by Legislature passing the current law in 1973 was intended to be used against him in 1972. The current law increased his minimum punishment to one half of 9 years of imprisonment for a crime allegedly consummated in 1971 before the consequences of the act completed and it's effective date by the respondents deliberate indifference, and prejudicial errors.

7. The respondents failed to reduced plaintiff's sentence within the statue of limitation or re-sentence him to the appropriate time and he served out his excessive sentence, consequently, requiring a dismissal of the indictment with prejudice on the grounds it's the only remedy.

8. Moreover, upon the respondents failure administer due diligence to the plaintiff he served out a 4 ½ to 9 years unconstitutional sentence illegally obtained under color of state and federal law and the interest of justice requires that the indictment to be dismissed.

THIRD FELONY CLAIM.

In 2003 the respondents introduced against the plaintiff, the prior unconstitutionally obtained convictions of 1985 under the similar acts at trial in order to impeach his credibility which was a prejudicial error on the grounds that both prior felonies denied him due process and equal protection of laws, and were unconstitutionally obtained (Plaintiff Exhibit A, and C=D, in Evidence herein).

10. Respondents direct projections are the results of prejudicial errors occurred at plaintiff's trial and sentence of imprisonment on the grounds the two alleged felonies induced an harsher sentence as an aggregated felon and it allegedly unconstitutionally denied him due process and equal protection of laws.

11. Respondents failed to reduce harsher sentence within the statute of limitation or retry plaintiff' on said charges and the appropriately, where trial court committed reversible errors sentencing him to a harsher term of imprisonment on the grounds of the his alleged prior convictions, therefore, by them failing to retry or re-sentence him within the required time prescribed by law for time he already served, the order should be to dismiss the indictment with prejudice.

4. FOURTH CLAIM AND STRIKE.

RESPONDENTS SHIFTED THEIR BURDEN.

12. Respondent with ***autistic certainty*** and ***animistic thinking*** shifted their burden of proof ***Technically, Knowingly, Openly (TKO) and Common Sense Investigation (CSI)*** on each felony unconstitutionally obtained ("***the backdoor mechanism***") against the plaintiff, , consequently, depriving him of due process by reducing the alleged sentences within the statutory limitations on each claim and the time he already served excessively under color of state and federal laws by prejudice in the interest of justice, due process, equal protection of laws in each of the following elements:

1st Felony and Strike Claim.

13. In 1974 the respondents (Appellate Division, Second Department) ruled that the plaintiff's 3 year sentence to imprisonment was excessive, but failed to dismiss the indictment for more than the time he already served, it was a ***prejudicial error*** by modifying it in the ***interest of justice*** with deliberate indifference to the question of state and federal laws under the indictment and the indifference to the New York Court of Appeals in Flynn, supra.

2nd Felony and Strike Claim.

14. In 1985 respondents used the new Second Offender law against the plaintiff unconstitutionally when it became effective September 1, 1973, and under the 1972 alleged conviction without any fair warning to enhance his sentence as predicate offender and sentencing him to 4 ½ to 9 years of imprisonment which he served and under normal circumstances could have been probation or 1 ½ to 4 ½ and failed to reduce his sentence within the statutory time limit required by law and failed to mentioned on appeal that he was sentence as a predicate even though it was argued and that he already served a sentence beyond the law prescribed when the trial court committed a reversible error sentencing him as a predicate offender, and that the indictment should have been dismissed with prejudice.

3rd Felony and Strike Claim.

15. In 2003 respondents at trial referred the plaintiff's previous alleged convictions and invited the Jury unconstitutionally to determine his guilt and impeach his credibility under color of state and federal law with this prejudice at the trial. In the chain of events and the indictment (No. 9445/01) should be dismissed on the grounds both previous convictions alleged were unconstitutionally obtained ***under their "backdoor mechanism,"*** and was used unfavorably to draw inferences to the prejudice trial and sentence him an aggregated felon by failing to reduce his sentence within the statutory time limits required by law, and then later he was put ***under a removal order from the United States to Panama as an aggregated felon***.

At this point we need to get the Record straight and justify whether or not the laws of the U.S. was applied equally with the protection and due process to this plaintiff as it stands or was Unconstitutionally applied under the "backdoor mechanism", color of state and federal laws by the respondents.

WHEREFORE, **plaintiff prays that the aforementioned complaint be granted declaratory judgment on 3 felony charges accrued and incurred over the past 38 years from *Statement 1 throughout 15* on the grounds alleged that the he had been unconstitutionally denied due process, equal protection of state and federal laws under color by the respondents by their shifted *TKO, CSI* further reasons set forth in the attached Memorandum of Law, and *in the interest of the of justice* upon this immediate demand for a jury trial on all these triable issues.**

Very Truly Yours,

/s/

ALFONSO SPRINGER-KNIGHT.

I'm the undersigned in this complaint and cause of action and make this application Pursuant to Title 28 U.S.C. section 1746 based upon information, I Believe is true and exact under the penalties of perjury on this 13th, of October in the Year of Our Lord 2009.

/s/

4

The PEOPLE, etc., Respondent, v. Alfonso KNIGHT, a/k/a Alphonso Springer Knight, Appellant.

Supreme Court, Appellate Division, Second Department. April 15, 1974. Appeal by defendant from a judgment of the Supreme Court, Kings County, rendered October 2, 1972, convicting him of possession of a dangerous weapon, on a plea of guilty, and sentencing him to an indeterminate prison term not to exceed three years. Judgment modified, as a matter of discretion in the interest of justice, by

reducing the sentence to the time served. As so modified, judgment affirmed. In our opinion, the sentence was excessive to the extent indicated herein.

HOPKINS, Acting P. J., and MARTUSCELLO, SHAPIRO, CHRIST and BRENNAN, JJ., concur.

Plaintiff's Exhibit "A"

589 N.E.2d 383
79 N.Y.2d 879

...he PEOPLE of the State of New York, Respondent,
v.
...trol FLYNN, Appellant.
...rt of Appeals of New York.
Feb. 18, 1992.

...ant was convicted of leaving ...accident without reporting by the ... Court, Queens County, Garcia, J., ...appealed. The Supreme Court, Appellate Division, 167 A.D.2d 555, 562 ...2d 225, affirmed. On further review, the Court of Appeals held that: (1) ...court's incomplete charge on People's ...n of proof was reversible error, and ...propriate remedy, in case in which ...court had already served sentence, ...rder dismissing indictment.

...ffirmed as modified.

4. Criminal Law ⇐627.7(3)

Material in possession of state administrative agency, such as Department of Motor Vehicles, is not within control of prosecutor and cannot be subject of *Rosario* claim when local prosecutor fails to produce it.

5. Criminal Law ⇐1187

Appropriate remedy, where trial court committed reversible error in case in which defendant had already served his sentence, was order dismissing indictment.

Kenneth Finkelman and Philip L. Weinstein, New York City, for appellant.

Richard A. Brown, Dist. Atty. (Aprilanne Agostino, Kew Gardens, and Barbara D. Underwood, Brooklyn, of counsel), for respondent.

OPINION OF THE COURT

MEMORANDUM.

The order of the Appellate Division, 167 A.D.2d 555, 562 N.Y.S.2d 225, should be

motor vehicle who knowingly causes damage to the personal property of another, "shall, before leaving the place where the accident occurred, stop, exhibit his license and insurance identification card for such vehicle * * * and give his name, residence * * * insurance carrier and insurance identification information * * * to the party sustaining the damage". The section further provides that where "the person sustaining the damage is not present at the place where the damage occurred," then the operator "shall report the same as soon as physically able to the nearest police station, or judicial officer" (Vehicle and Traffic Law § 600[1][a][c]). Defendant claims that the trial court committed reversible error when it failed to instruct the jury, in accordance with Vehicle and Traffic Law § 600(1)(a), that if the "person sustaining the damage is not present at the place where the damage occurred," the People must prove that the person causing the damage did not "report the same as soon as physically able to the nearest police station, or judicial officer."

Plaintiff's Exhibit "B"

quez, 137 A.D.2d 947, 525 N.Y.S.2d 312; People v. Gavitt, 136 A.D.2d 651, 523 N.Y.S.2d 608).

We note that in light of this court's previous determination that the lineup viewed by Henriquez was suggestive (see, People v. Moore, 143 A.D.2d 1056, 533 N.Y.S.2d 602 supra), it was error for the court to allow Henriquez to testify to identifying the defendant from the lineup. However, we find that in light of the overwhelming evidence of the defendant's guilt, the error was harmless and does not warrant granting a new trial (see, People v. Crimmins, 36 N.Y.2d 230, 367 N.Y.S.2d 213, 326 N.E.2d 787).

We have considered the defendant's remaining contentions and find them to be either academic in light of this court's prior order (see, People v. Moore, supra) or without merit.

153 A.D.2d 939

The PEOPLE etc., Respondent,

v.

Alfonso SPRINGER, Appellant.

Supreme Court, Appellate Division, Second Department.

Sept. 25, 1989.

Defendant was convicted by the Supreme Court, Kings County, Vinik, J., of criminal sale of controlled substance, and he appealed. The Supreme Court, Appellate Division, held that loss of arresting officer's notes containing description of defendant did not preclude conviction.

Affirmed.

1. Criminal Law ⇐700(9)

Loss of arresting officer's notes containing description of narcotics defendant did not preclude conviction where information contained in notes was transferred to a report completed on day of arrest and contents of report had been made available to defense counsel, there was no evidence that notes were destroyed in bad faith or in effort to frustrate defendant's right to cross-examination.

2. Criminal Law ⇐404.60

Circumstances surrounding handling of cocaine purchased from defendant by undercover officer, and prerecorded money used to make that purchase, provided reasonable assurances of identity and unchanged condition of that evidence; deficiencies in chain of custody went to weight, rather than admissibility, of evidence.

Calvin C. Saunders, New York City (Michelle Jones Bogg, of counsel), for appellant.

Alfonso Springer, pro se.

Elizabeth Holtzman, Dist. Atty., Brooklyn (Barbara D. Underwood, Tammy J. Smiley and David J. Ceet, of counsel), for respondent.

Before BROWN, J.P., and KUNZEMAN, EIBER and KOOPER, JJ.

MEMORANDUM BY THE COURT.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Vinik, J.), rendered April 4, 1985, convicting him of criminal sale of a controlled substance in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

[1] Contrary to the defendant's contention, reversal of the judgment is not required because the People were unable to produce the notes made by one of the arresting officers which contained the description of the perpetrator as given to him by the undercover officer involved in this so-called "buy and bust" operation. Those notes had been discarded by the officer, but not until he transferred the information contained therein to a report completed on the day of the defendant's arrest. The contents of that report were made available to defense counsel and there is no evidence that the notes were destroyed in bad faith or in an effort to frustrate the defendant's right to cross-examination (see, People v. Vasquez, 145 A.D.2d 588, 536 N.Y.S.2d [illegible]; People v. Jones, 140 A.D.2d 919, [illegible] N.Y.S.2d 142). Thus, the [illegible] does not require reversal of the judgment (see, People v. Martinez, 71 N.Y.2d [illegible], [illegible] N.Y.S.2d 813, 521 N.E.2d 133; People v. [illegible], 145 A.D.2d 590, 535 N.Y.S.2d [illegible]; People v. Vasquez, supra).

[2] The testimony adduced [illegible] circumstances surrounding the handling of the cocaine purchased from the defendant by the undercover officer and the prerecorded money used to make the [illegible] provided reasonable assurances of identity and unchanged condition of the evidence (People v. Julian, 41 N.Y.2d 340, 392 N.Y.S.2d 610, 360 N.E.2d [illegible]; People v. Smith, 140 A.D.2d [illegible] N.Y.S.2d 79). Any deficiencies in the chain of custody went to the weight and not the admissibility of the [illegible] People v. Newman, 129 A.D.2d [illegible] N.Y.S.2d 501).

Additionally, [illegible] that [illegible] court's charge in general [illegible] which [illegible] marshals the evidence [illegible] (see, People v. Saunders, [illegible] 165, 485 N.Y.S.2d 250, 474 N.E.2d [illegible]; People v. Bell, 38 N.Y.2d 116, 378 N.Y.S.2d 680, 341 N.E.2d 236; cf., People v. [illegible], 138 A.D.2d 506, 525 N.Y.S.2d 866, app. [illegible] N.Y.2d 872, 537 N.Y.S.2d 796, 534 N.E.2d 833), and the defendant was not deprived of the effective assistance of counsel (see, People v. Baldi, 54 N.Y.2d 137, 444 N.Y.S.2d 893, 429 N.E.2d 400).

We have considered the defendant's remaining contentions, including those [illegible] in his pro se supplemental brief, and find them to be either unpreserved for appellate review or without merit.

Plaintiff Exhibit "C" [illegible] felony offender [illegible] and minimum of [illegible] of imprisonment People v. Springer, supra.

Exhibit C

PROOF OF SERVICE

Said service was made by depositing the Complaint, Memorandum Of Law, and application for Forma Pauperis correctly addressed to:

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
225 CADMAN PLAZA
BROOKLYN, NEW YORK, 11201.

1 original
1 copy
Oct, 13, 2009

Very truly yours

Alfonso S Jr Knight

ALFONSO SPRINGER KNIGHT
General Delivery Calidonia
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0816

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Alfonso S Jr Knight

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

THE PEOPLE OF CITY OF NEW YORK.

Respondents.

----------x

FORMA PAUPERIS

Docket no.----------

ALFONSO SPRINGER KNIGHT, deposes and says:

1. That I am the plaintiff in this cause of action, and make this application in forma pauperis as a person who is unable to prepay the filing fee because I am without any finance or job or money in Panama as a disable person pursuant 28 U.S.C. Section 1915 and 1915A.
2. While I was in the United States, I received SSI payments (095 36 6940) for over 30 years after being seriously wounded by a City employee (respondent).
3. I have been to the American Counsel at Clayton, and was told that SSI payments does not extend beyond the U.S. Borders, therefore, the hardship unable to support one self has been imposed by the accumulative negative effect upon me.
4. Therefore, I hope that this Court grants this application to be filed without the per-payment fee in this just cause in the interest of justice.

Oct. 13, 2009

Very Truly Yours,

Alfonso Springer Knight

ALFONSO SPRINGER KNIGHT

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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ALFONSO SPRINGER KNIGHT,

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Date oct 13, 2009

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UNITED STATES DISTRICT COURT
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Plaintiff,

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ALFONSO SPRINGER KNIGHT

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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ALFONSO SPRINGER KNIGHT,

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The Respondents: The People of The City of New York,
attorney is the Corporation Counsel, Michael Cardozo
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3. FACTS

FIRST FELONY CLAIM

1. On April 15, 1974, the respondent (Supreme Court Appellate Division Second Department) determined that the ***plaintiff 3 year sentence of imprisonment was "excessive," and "modified" his judgment of conviction to time served in the "interest of justice."***

2. Plaintiff believes this judgment alleged by the respondents ***unconstitutionally denied him due process and equal protection of laws, prejudicial on the grounds that he had already served more than the time required by law when the trial court committed a reversible error by failing dismiss indictment with prejudice*** (Plaintiff's Exhibit A, See People v. Springer-Knight, 354 N.Y.S. 2d. 996).

3. The New York Court of Appeals claimed;

> ***"Appropriate remedy, where trial court committed reversible error in case in which defendant (or plaintiff) had already served his sentence, was order dismissing indictment*** (Plaintiff's Exhibit B, See People v. Flynn, 581 N.Y.S. 2d. 160, 161).

4. No purpose would be served by respondent's retrial for reversible error where plaintiff had already completed his sentence, and proper remedy was to reverse conviction and to dismiss information with prejudice.

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5. The respondents failed to dismiss the indictment (No. 6888/71) on April 15, 1974 and without fair warning, due process and equal protection of laws, they used the Newly Second Offender law, Penal Law 70.06 and CPL 400.21 which became effective September 1, 1973, effectively against the plaintiff in 1985 under the 1972 alleged conviction, and the Appellate Division Second Department failed to mentioned in their opinion on appeal that he was sentenced as a predicate offender which was part of the appeal a prejudicial error, and his sentence should have been considered, and corrected (Plaintiff's Exhibit "C" People v. Springer, 545 N.Y.S.2d 766 in Evidence herein, Please find a copy attached hereto.)

6 .This Court and the respondents here should agree that, the 1973 Second Offender ex post facto law was used unconstitutionally against the plaintiff denied him due process and equal protection of laws, since there was not any fair notice in 1971 by Legislature passing the current law in 1973 was intended to be used against him in 1972. The current law increased his minimum punishment to one half of 9 years of imprisonment for a crime allegedly consummated in 1971 before the consequences of the act completed and it's effective date by the respondents deliberate indifference, and prejudicial errors.

7. The respondents failed to reduced plaintiff's sentence within the statue of limitation or re-sentence him to the appropriate time and he served out his excessive sentence, consequently, requiring a dismissal of the indictment with prejudice on the grounds it's the only remedy.

8. Moreover, upon the respondents failure administer due diligence to the plaintiff he served out a 4 ½ to 9 years unconstitutional sentence illegally obtained under color of state and federal law and the interest of justice requires that the indictment to be dismissed.

Exhibit A, and C=D, in Evidence herein).

10. Respondents direct projections are the results of prejudicial errors occurred at plaintiff's trial and sentence of imprisonment on the grounds the two alleged felonies induced an harsher sentence as an aggregated felon and it allegedly unconstitutionally denied him due process and equal protection of laws.

11. Respondents failed to reduce harsher sentence within the statute of limitation or retry plaintiff' on said charges and the appropriately, where trial court committed reversible errors sentencing him to a harsher term of imprisonment on the grounds of the his alleged prior convictions, therefore, by them failing to retry or re-sentence him within the required time prescribed by law for time he already served, the order should be to dismiss the indictment with prejudice.

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13. In 1974 the respondents (Appellate Division, Second Department) ruled that the plaintiff's 3 year sentence to imprisonment was excessive, but failed to dismiss the indictment for more than the time he already served, it was a ***prejudicial error*** by modifying it in the ***interest of justice*** with deliberate indifference to the question of state and federal laws under the indictment and the indifference to the New York Court of Appeals in Flynn, supra.

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14. In 1985 respondents used the new Second Offender law against the plaintiff unconstitutionally when it became effective September 1, 1973, and under the 1972 alleged conviction without any fair warning to enhance his sentence as predicate offender and sentencing him to 4 ½ to 9 years of imprisonment which he served and under normal circumstances could have been probation or 1 ½ to 4 ½ and failed to reduce his sentence within the statutory time limit required by law and failed to mentioned on appeal that he was sentence as a predicate even though it was argued and that he already served a sentence beyond the law prescribed when the trial court committed a reversible error sentencing him as a predicate offender, and that the indictment should have been dismissed with prejudice.

3rd Felony and Strike Claim.

15. In 2003 respondents at trial referred the plaintiff's previous alleged convictions and invited the Jury unconstitutionally to determine his guilt and impeach his credibility under color of state and federal law with this prejudice at the trial. In the chain of events and the indictment (No. 9445/01) should be dismissed on the grounds both previous convictions alleged were unconstitutionally obtained ***under their "backdoor mechanism,"*** and was used unfavorably to draw inferences to the prejudice trial and sentence him an aggregated felon by failing to reduce his sentence within the statutory time limits required by law, and then later he was put ***under a removal order from the United States to Panama as an aggregated felon***.

At this point we need to get the Record straight and justify whether or not the laws of the U.S. was applied equally with the protection and due process to this plaintiff as it stands or was Unconstitutionally applied under the "backdoor mechanism", color of state and federal laws by the respondents.

WHEREFORE, **plaintiff prays that the aforementioned complaint be granted declaratory judgment on 3 felony charges accrued and incurred over the past 38 years from *Statement 1 throughout 15* on the grounds alleged that the he had been unconstitutionally denied due process, equal protection of state and federal laws under color by the respondents by their shifted *TKO, CSI* further reasons set forth in the attached Memorandum of Law, and *in the interest of the of justice* upon this immediate demand for a jury trial on all these triable issues.**

Very Truly Yours,

ALFONSO SPRINGER-KNIGHT.

I'm the undersigned in this complaint and cause of action and make this application Pursuant to Title 28 U.S.C. section 1746 based upon information, I Believe is true and exact under the penalties of perjury on this 13th, of October in the Year of Our Lord 2009.

The PEOPLE, etc., Respondent, v. Alfonso KNIGHT, a/k/a Alphonso Springer Knight, Appellant.

Supreme Court, Appellate Division, Second Department. April 15, 1974. Appeal by defendant from a judgment of the Supreme Court, Kings County, rendered October 2, 1972, convicting him of possession of a dangerous weapon, on a plea of guilty, and sentencing him to an indeterminate prison term not to exceed three years. Judgment modified, as a matter of discretion in the interest of justice, by

reducing the sentence to the time served. As so modified, judgment affirmed. In our opinion, the sentence was excessive to the extent indicated herein.

HOPKINS, Acting P. J., and MARTUSCELLO, SHAPIRO, CHRIST and BRENNAN, JJ., concur.

Plaintiff's Exhibit "A"

589 N.E.2d 383
79 N.Y.2d 879

The PEOPLE of the State of New York, Respondent,
v.
Errol FLYNN, Appellant.
Court of Appeals of New York.
Feb. 18, 1992

Defendant was convicted of leaving scene of accident without reporting by the Supreme Court, Queens County, Giaccio, J., and he appealed. The Supreme Court, Appellate Division, 167 A.D.2d 555, 562 N.Y.S.2d 225, affirmed. On further review, the Court of Appeals held that: (1) trial court's incomplete charge on People's burden of proof was reversible error, and (2) appropriate remedy, in case in which defendant had already served sentence, was order dismissing indictment.

Modified and affirmed as modified.

4. Criminal Law ⇐627.7(3)

Material in possession of state administrative agency, such as Department of Motor Vehicles, is not within control of prosecutor and cannot be subject of *Rosario* claim when local prosecutor fails to produce it.

5. Criminal Law ⇐1187

Appropriate remedy, where trial court committed reversible error in case in which defendant had already served his sentence, was order dismissing indictment.

Leon Kenneth Finkelman and Philip L. Weinstein, New York City, for appellant.

Richard A. Brown, Dist. Atty. (Aprilanne Agostino, Kew Gardens, and Barbara D. Underwood, Brooklyn, of counsel), for respondent.

OPINION OF THE COURT

MEMORANDUM.

The order of the Appellate Division, 167 A.D.2d 555, 562 N.Y.S.2d 225, should be

motor vehicle who knowingly causes damage to the personal property of another, "shall, before leaving the place where the accident occurred, stop, exhibit his license and insurance identification card for such vehicle * * * and give his name, residence * * * insurance carrier and insurance identification information * * * to the party sustaining the damage." The section further provides that where "the person sustaining the damage is not present at the place where the damage occurred," then the operator "shall report the same as soon as physically able to the nearest police station, or judicial officer" (Vehicle and Traffic Law § 600[1][a]). Defendant claims that the trial court committed reversible error when it failed to instruct the jury, in accordance with Vehicle and Traffic Law § 600(1)(a), that if the "person sustaining the damage is not present at the place where the damage occurred," the People must prove that the person causing the damage did not "report the same as soon as physically able to the nearest police station, or judicial officer."

Plaintiff's Exhibit "B"

quez, 137 A.D.2d 847, 525 N.Y.S.2d 312; *People v. Gorett*, 136 A.D.2d 651, 523 N.Y.S.2d 608).

We note that in light of this court's previous determination that the lineup viewed by Henriquez was suggestive (*see, People v. Moore*, 143 A.D.2d 1056, 533 N.Y.S.2d 602 *supra*), it was error for the court to allow Henriquez to testify to identifying the defendant from the lineup. However, we find that in light of the overwhelming evidence of the defendant's guilt, the error was harmless and does not warrant granting a new trial (*see, People v. Crimmins*, 36 N.Y.2d 230, 367 N.Y.S.2d 213, 326 N.E.2d 787).

We have considered the defendant's remaining contentions and find them to be either academic in light of this court's prior order (*see, People v. Moore, supra*), or without merit.

153 A.D.2d 959

The PEOPLE etc., Respondent,

v.

Alfonso SPRINGER, Appellant.

Supreme Court, Appellate Division, Second Department.

Sept. 25, 1989.

Defendant was convicted by the Supreme Court, Kings County, Vinik, J., of criminal sale of controlled substance, and he appealed. The Supreme Court, Appellate Division, held that loss of arresting officer's notes containing description of defendant did not preclude conviction.

Affirmed.

1. Criminal Law ⇔700(9)

Loss of arresting officer's notes containing description of narcotics defendant did not preclude conviction where information contained in notes was transferred to a report completed on day of arrest and contents of report had been made available to defense counsel, there was no evidence that notes were destroyed in bad faith or in effort to frustrate defendant's right to cross-examination.

2. Criminal Law ⇔404.60

Circumstances surrounding handing of cocaine purchased from defendant by undercover officer, and prerecorded money used to make that purchase, provided reasonable assurances of identity and unchanged condition of that evidence; deficiencies in chain of custody went to weight, rather than admissibility, of evidence.

Calvin C. Saunders, New York City (Michelle Jones Bogg, of counsel), for appellant.

Alfonso Springer, pro se.

Elizabeth Holtzman, Dist. Atty., Brooklyn (Barbara D. Underwood, Tammy J. Smiley and David J. Ceci, of counsel), for respondent.

Before BROWN, J.P., and KUNZEMAN, EIBER and KOOPER, JJ.

MEMORANDUM BY THE COURT

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Vinik, J.), rendered April 4, 1985, convicting him of criminal sale of a controlled substance in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

[1] Contrary to the defendant's contention, reversal of the judgment is not required because the People were unable to produce the notes made by one of the arresting officers which contained the description of the perpetrator as given to him by the undercover officer involved in this so-called "buy and bust" operation. Those notes had been discarded by the officer, but not until he transferred the information contained therein to a report completed on the day of the defendant's arrest. The contents of that report were made available to defense counsel and there is no [illegible] that the notes were destroyed in bad faith or in an effort to frustrate the defendant's right to cross-examination (*see, People v. Vasquez*, 137 A.D.2d 847, 530 N.Y.S.2d [illegible]; *People v. Jones*, 130 A.D.2d 647, 516 N.Y.S.2d 142). Thus, the omission does not require reversal of the judgment (*see, People v. Martinez*, 71 N.Y.2d 937, [illegible] N.Y.S.2d 813, 524 N.E.2d 134; *People v.* [illegible], 145 A.D.2d 499, 535 N.Y.S.2d [illegible]; *People v. Vasquez, supra*).

[2] The testimony adduced [illegible] circumstances surrounding the handling of the cocaine purchased from the defendant by the undercover officer and the prerecorded money used to make that purchase "provide[s] reasonable assurances of the identity and unchanged condition" of the evidence (*People v. Julian*, 41 N.Y.2d 340, 343, 392 N.Y.S.2d 610, 360 N.E.2d [illegible]; *People v. Smith*, 130 A.D.2d 784, 516 N.Y.S.2d 72). Thus, any deficiencies in the chain of custody went to the weight and not the admissibility of the evidence (*see, People v. Newman*, 129 A.D.2d 742, 514 N.Y.S.2d 501).

Additionally, we find that neither the court's charge in general, nor the way in which it marshaled the evidence, was erroneous (*see, People v. Saunders*, 64 N.Y.2d 665, 485 N.Y.S.2d 250, 474 N.E.2d [illegible]; *People v. Bell*, 38 N.Y.2d 116, 378 N.Y.S.2d 686, 341 N.E.2d 246; *cf., People v. E*[illegible], 138 A.D.2d 506, 525 N.Y.S.2d 899, *affd* [illegible] N.Y.2d 872, 537 N.Y.S.2d 796, 534 N.E.2d 833), and the defendant was not deprived of the effective assistance of counsel (*see, People v. Baldi*, 54 N.Y.2d 137, 444 N.Y.S.2d 893, 429 N.E.2d 400).

We have considered the defendant's remaining contentions, including those raised in his *pro se* supplemental brief, and find them to be either unpreserved for appellate review or without merit.

Plaintiff Exhibit "[illegible]" [illegible] [illegible]
felony offender [illegible] and minimum 4½
of imprisonment People v Springer, supra.

Exhibit C

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

THE PEOPLE OF THE CITY OF NEW YORK,

Respondents.

Docket no.----------

MEMORANDUM OF LAW

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

THE PEOPLE OF THE CITY OF NEW YORK,

Respondents.

Docket no.----------

MEMORANDUM OF LAW

STATEMENT OF THE CASE

(T)his is a Cold case dating back to March 3rd,1971when the respondents with ***autistic certainty, mentaliy*** confused ***evidence of their opinion*** of the plaintiff, with ***the physical evidence of facts and the Laws, Rules, Regulations, Procedural Safeguards, and their Oath of Office.***

Consequently, respondents are under this Illusion and the plaintiff has been their Scapegoat, allegedly convicted of 3 underhanded felonies, under ***"the backdoor mechanism."***

The respondent, the People of the City of New York gave district attorney Eugene Gold and his officers this Blank check to go Madoff against the accused plaintiff, ***Technically, Knowingly, Open (TKO)***, they operated independently from basic ***Common Sense Investigation (CSI)***, the established state and federal Rules of laws, and the wishes of the People of the City of New York.

This ***malicious prosecution*** by the respondents did irreparable damages to the plaintiff, the Cover-up, Frame-up, The Stress, the twist , turns, curves by the underhanded indictment, the false imprisonment, the fork in the road of justice, their decisions are the increments here under color of state and federal laws. Their office should be sufficient to determine what unlawfully that comes out of it.

This case deals with the ambiguous decisions made by the respondents (Appellate Division, Second Department, the District Attorney, and the City of New York) with deliberate indifference to the plaintiff in the interpretation of State and Federal laws which was in direct contradiction with the First Department Appellate Division on the same issues, and New York State Highest Court, the Court of Appeals.

It shows how the respondents continued deliberate indifference plan to the plaintiff well thought-out and nothing "spontaneous" about their reactions unconstitutionally to enhance his time of imprisonment and ***on 3 separate occasion without fair warning put him down on facts he was not upon (prejudice) and the laws Blindsided by the Backdoor Justice Mechanism*** that contributed to his cruel and usual punishment each time which already served and the indictment should have been dismissed according to the Rules, and procedures of law with prejudice.

It was a prejudicial error for the respondents to used the two alleged prior convictions at trial in 2003 which they obtained unconstitutionally against the plaintiff and to sentence him to an higher sentence not prescribed by law.

In all these 3 alleged felonies against plaintiff resulted in an sentence ***"excessive"*** time of imprisonment which had to be reduce and within the statute of limitation by the respondents failure to make the necessary timely adjustment , he already served more than his time imprisoned, which as a result denied him unconstitutionally, due process and equal protection of the laws.

The respondents then shifted their burden of proof on to the plaintiff, but that burden remains with them to prove every elements of their charges ***TKO*** and ***CSI*** beyond a reasonable doubt Point 1 in 7, infra.

FEDERAL QUESTIONS OF LAWS.

1. The respondent (App. Div. 2nd Dept.) determined that the plaintiff sentence of was imprisonment was excessive, why the indictment wasn't dismissed?
2. September 1, 1973 Second Offender Law used against the plaintiff alleged 1972 conviction, was it used unconstitutionally?
3. In 2003 was the plaintiff unconstitutionally depraved him of the right to a fair trial and sentence by respondents introducing his alleged prior convictions ?
4. Was there any shifting of burden by the respondents' unto the plaintiff unconstitutionally under any of these alleged felonies, and his removal from the Country?

ARGUMENT.

THE DOUBLE STANDARDS BY THE RESPONDENTS APPLYING THE RULES OF LAWS.

POINT I

FAILURE TO DISMISS THE INDICTMENT

> "Supreme Court, Appellate Division, Second Department, April 15, 1972, Appeal by defendant from a judgment of the Supreme Court, Kings County, rendered October 2, 1972, convicting him of possession of a dangerous weapon, on a plea of guilty, and sentencing him to an indeterminate prison term not to exceed three years. ***Judgment modified, as matter of discretion in the Interest of justice, by reducing the sentence to the time served. as so modified, judgment affirmed. In our opinion, the sentence was excessive to the extent indicated herein."***

Plaintiff's Exhibit A, in Evidence herein, please find a copy attached hereto People v. Springer-Knight, 354 N.Y.S. 2d. 996,

The federal question, after the respondent determined that the plaintiff's sentence was ***excessive and he already served more than the time which amounted to cruel and unusual punishment reducing the sentence was not the proper remedy it should have been an order dismissing the indictment with prejudice.***

> *The New York Court of Appeals held that:*
> ***"Appropriate remedy, where trial court committed reversible error in case in which defendant had already served his sentence, was order dismissing indictment.***

See Plaintiff's Exhibit B in Evidence herein. People v. Flynn, 581 N.Y.S. 2d. 160, 161,

It has been the consensus of every State court, when the trial court committed a reversible error and the defendant or plaintiff already served his or her time was an order dismissing the indictment. See People v. Flynn, supra.

In People v. Murphy, 586 N.Y.S. 2d. 716, 717 ("No purpose would be served by retrial for reversible error where defendant had already completed his sentence, and proper remedy was to reverse conviction and to dismiss criminal information with prejudice.").

In People v. Bleau, 718 N.Y.S. 2d. 453 ("No basis existed for ordering new trial on reversal of defendant' conviction, where defendant (or plaintiff) had already served his sentence.").

POINT II

THE RESPONDENTS USED THE SECOND OFFENDER LAW UNCONSTITUTIONALLY AGAINST THE PLAINTIFF.

The respondents used the second offender law unconstitutionally against the plaintiff, Penal Law 70.06 and CPL 400.21 became effective September 1, 1973, and the *ex post facto* law was used by the respondent in 1985 under the alleged 1972 conviction. Plaintiff's Exhibit "C" People v. Springer, 545 N.Y.S.2d 766 in Evidence herein, Please find a copy attached hereto. See People v. Thompson, 389 N.Y.S. 2d. 104,105:

> ***"Where crime of assault to which defendant entered guilty plea occurred on May 27, 1973, defendant could not be Sentenced under second felony offender Statute which became effective September 1, 1973. Penal Law section 70.06.***

Respondents here should agree that, the 1973 second offender law never gave plaintiff fair notice in 1971 or 1972 when Legislature passed the current law in 1973,

and used it against him in 1985 which was unconstitutionally obtained, using the current law to increased his punishment to 4 ½ to 9 years of imprisonment for a crime alleged in 1971 and consummated before the consequences of the act was completed before it's effective date. See People v. Barbour, 443 N.Y.S. 2d. 815,

817. The consequences of respondents imposing the second offender law against Plaintiff required

2 elements: **(a)Fair notice when the legislature increased punishment beyond what was prescribed when the crime was allegedly consummated.**

(b) The law change the legal consequences of acts completed before It 's effective date.

[T]he *ex post facto prohibition* . . .is not an individual's right to less punishment, but the lack of *fair notice* and *government restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated* . . . . *The critical question is whether the law changes the legal consequences of acts completed before its effective date."* See Barbour, supra, at 818.

See People v. Taylor, 382 N.Y.S. 2d. 688 (Burden of proving constitutionality of previous conviction is on the People. CPL 400.21, subd. 7[a]).

In other words, it was cruel and usual punishment for the respondents to apply 4 ½ to 9 years imprisonment against petitioner as a predicate offender. See People v. Martinez, 595 N.Y.S. 2d. 39 ("While sentence within statutory limits is ordinarily not cruel and unusual punishment, in some rare cases statute can be unconstitutionally applied."). Plaintiff's case at bar, the reversible error by enhancing his sentence that was never corrected by the respondents and he completed his 9 year sentence, which should have been dismissed with prejudice on the ground that he had served more than the law aloud, denied due process, and equal protection of laws under the United States Guarantees.

POINT III

How do you define Prejudice?

"A wit define prejudice when a person put you down on something that you are not up on."1.

An example of prejudice in this case at bar are:

(a) An April 15, 1974, when the Appellate Division, Second Department was up on the fact that the plaintiff's sentence was excessive and failed to put him down by dismissing the indictment, it was a prejudicial error;

(b) Plaintiff's Exhibit C, supra, after the App. Div.2nd Department (respondent) failed to even mentioned that plaintiff was sentenced as a predicate which was a prejudicial error, even though the matter was preserved and unconstitutionally a prejudicial error.

© And. for the respondents to put the plaintiff down at trial with previously alleged felonies unconstitutionally obtained to get a conviction, it was also a prejudicial error.

POINT IV

THE EXAMPLE OF LAW AND THE ORDER.

Compare **Point I** to People v. Robles, infra, the Appellate Division also claimed: " . . .because illegal sentence was imposed for defendant's prior conviction, it could not serve as predicate felony conviction and, thus, defendant's adjudication as a second felony offender had to be vacated."

Inasmuch, in the Springer-Knight situation the respondents failed to apply the law correctly, and to make matters worst, they applied a 1973 ***ex post facto law*** by using it against plaintiff's alleged 1972 conviction:

> " . . . ***The Supreme Court, Appellate Division [First Department] held that: (1)although issue was not preserved for appellate review, defendant's conviction for fourth-degree criminal possession of a weapon had to be vacated, in the interest of justice, and (2) because illegal sentence imposed for defendant's prior conviction, it could not serve as predicate felony conviction and, thus, defendant's adjudication as a second felony had to be vacated." See People v. Robles, 673 N. Y. S. 2d. 654, 655. Plaintiff's Exhibit "E" in Evidence, herein.***

The Supreme Courts, Appellate Division (respondent Point I), supra, both agreed in the interest of justice and defendants conviction for possession of a weapon was

1.The Book, The Nature of Prejudice by Gordon Alport.

"excessive" but disagreed, when the First Department did the right thing and vacated the defendant's sentence, and the Second Department Appellate Division (respondent) **failed to remedy the Common Sense Investigation (CSI) did not serve the interest of justice when the trial Court admittedly committed a reversible error under color of state and federal laws.**

POINT V

PREJUDICIAL ERRORS occurred AT TRIAL AND SENTENCING REQUIRED THE INDICTMENT TO BE DISMISSED.

Because of the failures in the interest of justice (Point I to IV) the respondents used in 2003 ***prejudicial errors at the trial under Sandoval*** which it tainted the proceedings unconstitutionally and deprived plaintiff the right to due process at trial and sentencing under the equal protection of laws, See Plaintiff's Exhibit D, supra in the Complaint..

(a) If this Court determine that plaintiff's alleged prior convictions were unconstitutionally obtained by respondents, it should also find that they were used unconstitutionally at trial and prejudice the proceedings against him to have fair trial, and sentencing.

(b) Plaintiff was sentence to an enhanced term of imprisonment because of said felonies discussed and the respondents failure to reduce his sentence or a new trial within the statute of limitation appropriately, therefore, the indictment should be dismissed with prejudice.

© If procedures were being followed lawfully plaintiff probably would never have been convicted of any crime or sentenced.

POINT VI

RESPONDENTS SHIFTED TKO AND CSI.

Respondents shifted Technically, Knowingly, Openly (TKO), their burden of proof of the Common Sense, Investigation (CSI) into the ***backdoor mechanism and justice*** to plaintiff which required them to come forward with evidence within their knowledge in this criminal case that raises 4th and 5th Amendments questions.

See Patterson v. New York, 97, S. Ct. 2319 (holding the government "must prove every ingredient of an offense beyond a reasonable doubt," and "it may not shift the burden of proof to the defendant (plaintiff) presuming that ingredient upon proof of the other elements of the offense.")

The respondents failed to prove the TKO in each felony, they stroked the ingredient of CSI in their favor beyond a reasonable doubt, and then shifted their burden of proof onto the plaintiff to prove under CSI the following:

POINT I, III, IV.

The respondents shifted their burden TKO and CSI to dismiss the indictment after they determined that plaintiff had already excessive time imprisoned on the grounds that the trial court committed a reversible error. See People v. Robles, Springer, supra.

POINT II, III, IV

Respondents used a new September 1st, 1973 unconstitutionally against the plaintiff's alleged 1972 conviction in 1985 without fair warning to enhance his sentence TKO and CSI beyond that prescribed by law, which he already served and the indictment should be dismissed in the interest of justice, and prejudice.. See People v 'Springer, Thompson, Babour, Robles, Taylor, supra.

POINT V, VI

(a) On one hand the respondents should agree that they Technically, Knowingly, Openly (TKO), shifted their burden upon the plaintiff to prove that the alleged 2003, 1972 and 1985 conviction were unconstitutionally obtained, and as a result of the (CSI) prejudicial error were introduced at trial in 2003 to impeach plaintiff's credibility which required a reversal of judgment, and conviction. See for example, Taylor, Patterson, supra.

(b) On the other hand, the plaintiff was adjudged a aggregated felon and sentenced as such which required that his sentence be reduce within the statute of limitation required by law.

© As a result of the respondents multiple failures, they failed to prove that plaintiff was guilty of any of the felonies unconstitutionally obtained and was put under a Removal Order from the United States to Panama by the Immigration Department, which in sum all these errors amounted to malicious prosecution, cruel unusual punishment, a denial of due process, and equal protection of under color of federal laws in the United States Guaranteed!.

POINT VII

JUDICIAL DISCRESION, INTEGRITY FOR FAIRNESS IN PROCEEDINGS AND PUBLIC REPUTATION IS NEEDED HERE.

"We're really flying blind on the subject, and that's not a good way to approach the Fourth Amendment and constitutional issues involving privacy."
"It's not one party's government. It's America's government. Those entrusted with great power have a duty to answer to Americans what they are doing," said Sen. Patrick Leaky of Vermont. (Buffalo Newspaper, May 12, 2006 page A 2).

The Backdoor Mechanism.

The respondents has applied a Double Standards and the ***backdoor mechanism of justice*** to rules and procedures because of their one party politics, social class, their management, company rules they serve which as nothing to do with law and order being employees in government who they should be serving the People of the City of New York.

'In certain times like this when you are being conned, robbed, rapped, under minded of what supposed to be your Bill of Rights Guaranteed by the United States Constitution, it's probably best not to cry out for help -- you run the risk of attracting the district attorney with animistic thinking and autistic certainty:

> ***"He (the plaintiff) commenced with his customary assumption of legal knowledge which he does not possess, this product of wasted effort, wasted, wasted, wasted, we are certain for him, wasted to the extent that it involves the time and attention of this Court and of the district attorney is—to be expected (Assistant D.A. William I. Segiel for Eugene Gold, on Appeal before the 2nd Dept. App. Div. 1974)."***

(T)his district attorney permit himself contradictions which is hard to reconcile with one another, first he begin by saying a piece of paper like his is quite harmless, no believer would let himself be robbed of his fate by consideration of a sought put forward in it, he believes that he can change a believer into a unbeliever, nevertheless we the believers are asking him, ***why are you in fact publishing your materials which is very dangerous indeed, that people like you no longer believe in God, now that he throws off his disobedience to you.***

(T)his type of misery, oppression, deviant behavior is being practice in Countries of One Party System like Russia, North Korea, China, Iraq, etc, etc., . The question here is what substitute the district attorneys have for the truth, religion or a conscience (The Book on the subject is ***THE FUTURE OF AN ILLUSSION*** by Sigmund Freud).

(a) These errors go into the internal affairs of the district attorney's office, grossly unsupervised by the publics scrutiny on a local level, the office should be sufficient for the Public Eyes to See what goes on in it or comes out. Those entrusted with great power have a duty to answer to Americans what they are doing.

(b) Increasingly, the respondents (district attorney and the City of New York) here are operating independently from State Laws and in the name of the People, claiming it's for their benefit, while all the time carrying –on their own agenda, and expropriating powers Reserved to the States in deliberate indifference to the People they should be working for, and the 10th Amendment.

The respondents gave the District Attorneys a Blank Check and at some Points therein, they went Mad off with Laws and convictions coming out their office against the plaintiff and there is no CSI into Internal Affairs questioning the politics or what comes out their office.

When your erst-while friends shoots you in the Back (Spinal Cord) from behind causing you to be paralyzed, denies they did it, calls it friendly fire, and then put you down under a Removal Order from the U.S. -- I believe it show you who your real –friends (respondents) are!

Say it ain't so Joe (Eugene, Elizabeth, Charlie)!

CONCLUSION

'If a man's –word, Laws, Public Records, Rules, Scrutiny, cannot withstand the pressure of these times – the man, his words, the Laws, Rules, are Mad off, and Woorthless!

Aforementioned, all 3 felonies were unconstitutionally obtained by the respondents alleged Backdoor mechanism of justice which systematically denied the plaintiff, due process and equal protection of laws, Rules, Regulations governing the values, Principles, Respect of justice in the would-be Justice System and for the reasons stated in the attached Complaint and this Memorandum of Law (Point I to VII) (t)his application requesting Declaratory Judgment for the respondents malicious prosecution should be granted on the grounds that:

> *"I've frankly acknowledge to you my conviction(s) and have laid down the grounds which they are founded, the consciousness of good intentions disdains ambiguities, my arguments are open to all and may be judge by all at least it is not being offered in the spirit which will disgrace the cause of truth (Alexander Hamilton, The Federalist Papers)."*

Finally, the record hereinafter indicates that the plaintiff was wrongly and unconstitutionally convicted of these felonies alleged by the respondents and should be dismissed in the interest of justice and for such other and further relief this court may deem just and proper.

Respectfully Submitted,

ALFONSO SPRINGER-KNIGHT.

I'm the undersigned in this cause of action and make this application Pursuant to Title 28 U.S.C. section 1746 based upon information, under the penal ties of perjury based upon information and belief to be true and exact by filing this Complaint, Memorandum of law, and application to proceed in forma pauperis on this ____ of October, in the Year of Our Lord 2009.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

----------x

ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

THE PEOPLE OF CITY OF NEW YORK.

Respondents.

----------x

WAIVER OF SERVICE

Docket no.----------

WAIVER OF THE SERVICE OF SUMMONS

ALFONSO SPRINGER KNIGHT:

I waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you. I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case. I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from , the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date Oct 13, 2009

Alfonso Springer Knight

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

----------x

ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

THE PEOPLE OF THE CITY OF NEW YORK,

Respondents.

---------- x

Docket no.----------

MEMORANDUM OF LAW

ALFONSO SPRINGER KNIGHT
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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ALFONSO SPRINGER KNIGHT,

Plaintiff,

-against-

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Respondents.

Docket no.----------

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Consequently, respondents are under this Illusion and the plaintiff has been their Scapegoat, allegedly convicted of 3 underhanded felonies, under ***"the backdoor mechanism."***

The respondent, the People of the City of New York gave district attorney Eugene Gold and his officers this Blank check to go Madoff against the accused plaintiff, ***Technically, Knowingly, Open (TKO)***, they operated independently from basic ***Common Sense Investigation (CSI)***, the established state and federal Rules of laws, and the wishes of the People of the City of New York.

This ***malicious prosecution*** by the respondents did irreparable damages to the plaintiff, the Cover-up, Frame-up, The Stress, the twist , turns, curves by the underhanded indictment, the false imprisonment, the fork in the road of justice, their decisions are the increments here under color of state and federal laws. Their office should be sufficient to determine what unlawfully that comes out of it.

This case deals with the ambiguous decisions made by the respondents (Appellate Division, Second Department, the District Attorney, and the City of New York) with deliberate indifference to the plaintiff in the interpretation of State and Federal laws which was in direct contradiction with the First Department Appellate Division on the same issues, and New York State Highest Court, the Court of Appeals.

It shows how the respondents continued deliberate indifference plan to the plaintiff well thought-out and nothing "spontaneous" about their reactions unconstitutionally to enhance his time of imprisonment and ***on 3 separate occasion without fair warning put him down on facts he was not upon (prejudice) and the laws Blindsided by the Backdoor Justice Mechanism*** that contributed to his cruel and usual punishment each time which already served and the indictment should have been dismissed according to the Rules, and procedures of law with prejudice.

It was a prejudicial error for the respondents to used the two alleged prior convictions at trial in 2003 which they obtained unconstitutionally against the plaintiff and to sentence him to an higher sentence not prescribed by law.

In all these 3 alleged felonies against plaintiff resulted in an sentence ***"excessive"*** time of imprisonment which had to be reduce and within the statute of limitation by the respondents failure to make the necessary timely adjustment , he already served more than his time imprisoned, which as a result denied him unconstitutionally, due process and equal protection of the laws.

The respondents then shifted their burden of proof on to the plaintiff, but that burden remains with them to prove every elements of their charges ***TKO*** and ***CSI*** beyond a reasonable doubt Point 1 in 7, infra.

FEDERAL QUESTIONS OF LAWS.

1. The respondent (App. Div. 2nd Dept.) determined that the plaintiff sentence of was imprisonment was excessive, why the indictment wasn't dismissed?
2. September 1, 1973 Second Offender Law used against the plaintiff alleged 1972 conviction, was it used unconstitutionally?
3. In 2003 was the plaintiff unconstitutionally depraved him of the right to a fair trial and sentence by respondents introducing his alleged prior convictions ?
4. Was there any shifting of burden by the respondents' unto the plaintiff unconstitutionally under any of these alleged felonies, and his removal from the Country?

ARGUMENT.

THE DOUBLE STANDARDS BY THE RESPONDENTS APPLYING THE RULES OF LAWS.

POINT I

FAILURE TO DISMISS THE INDICTMENT

> "Supreme Court, Appellate Division, Second Department, April 15, 1972, Appeal by defendant from a judgment of the Supreme Court, Kings County, rendered October 2, 1972, convicting him of possession of a dangerous weapon, on a plea of guilty, and sentencing him to an indeterminate prison term not to exceed three years. ***Judgment modified, as matter of discretion in the Interest of justice, by reducing the sentence to the time served. as so modified, judgment affirmed. In our opinion, the sentence was excessive to the extent indicated herein."***

Plaintiff's Exhibit A, in Evidence herein, please find a copy attached hereto People v. Springer-Knight, 354 N.Y.S. 2d. 996,

The federal question, after the respondent determined that the plaintiff's sentence was ***excessive and he already served more than the time which amounted to cruel and unusual punishment reducing the sentence was not the proper remedy it should have been an order dismissing the indictment with prejudice.***

> *The New York Court of Appeals held that:*
> ***"Appropriate remedy, where trial court committed reversible error in case in which defendant had already served his sentence, was order dismissing indictment.***

See Plaintiff's Exhibit B in Evidence herein. People v. Flynn, 581 N.Y.S. 2d. 160, 161,

It has been the consensus of every State court, when the trial court committed a reversible error and the defendant or plaintiff already served his or her time was an order dismissing the indictment. See People v. Flynn, supra.

In People v. Murphy, 586 N.Y.S. 2d. 716, 717 ("No purpose would be served by retrial for reversible error where defendant had already completed his sentence, and proper remedy was to reverse conviction and to dismiss criminal information with prejudice.").

In People v. Bleau, 718 N.Y.S. 2d. 453 ("No basis existed for ordering new trial on reversal of defendant' conviction, where defendant (or plaintiff) had already served his sentence.").

POINT II

THE RESPONDENTS USED THE SECOND OFFENDER LAW UNCONSTITUTIONALLY AGAINST THE PLAINTIFF.

The respondents used the second offender law unconstitutionally against the plaintiff, Penal Law 70.06 and CPL 400.21 became effective September 1, 1973, and the *ex post facto* law was used by the respondent in 1985 under the alleged 1972 conviction. Plaintiff's Exhibit "C" People v. Springer, 545 N.Y.S.2d 766 in Evidence herein, Please find a copy attached hereto. See People v. Thompson, 389 N.Y.S. 2d. 104,105:

> ***"Where crime of assault to which defendant entered guilty plea occurred on May 27, 1973, defendant could not be Sentenced under second felony offender Statute which became effective September 1, 1973. Penal Law section 70.06.***

Respondents here should agree that, the 1973 second offender law never gave plaintiff fair notice in 1971 or 1972 when Legislature passed the current law in 1973,

and used it against him in 1985 which was unconstitutionally obtained, using the current law to increased his punishment to 4 ½ to 9 years of imprisonment for a crime alleged in 1971 and consummated before the consequences of the act was completed before it's effective date. See People v. Barbour, 443 N.Y.S. 2d. 815,

817. The consequences of respondents imposing the second offender law against Plaintiff required

2 elements: **(a)Fair notice when the legislature increased punishment beyond what was prescribed when the crime was allegedly consummated.**

(b) The law change the legal consequences of acts completed before It 's effective date.

[T]he *ex post facto prohibition* . . .is not an individual's right to less punishment, but the lack of *fair notice* and *government restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated . . . . The critical question is whether the law changes the legal consequences of acts completed before its effective date."* See Barbour, supra, at 818.

See People v. Taylor, 382 N.Y.S. 2d. 688 (Burden of proving constitutionality of previous conviction is on the People. CPL 400.21, subd. 7[a]).

In other words, it was cruel and usual punishment for the respondents to apply 4 ½ to 9 years imprisonment against petitioner as a predicate offender. See People v. Martinez, 595 N.Y.S. 2d. 39 ("While sentence within statutory limits is ordinarily not cruel and unusual punishment, in some rare cases statute can be unconstitutionally applied."). Plaintiff's case at bar, the reversible error by enhancing his sentence that was never corrected by the respondents and he completed his 9 year sentence, which should have been dismissed with prejudice on the ground that he had served more than the law aloud, denied due process, and equal protection of laws under the United States Guarantees.

POINT III

How do you define Prejudice?

"A wit define prejudice when a person put you down on something that you are not up on."[1].

An example of prejudice in this case at bar are:

(a) An April 15, 1974, when the Appellate Division, Second Department was up on the fact that the plaintiff's sentence was excessive and failed to put him down by dismissing the indictment, it was a prejudicial error;

(b) Plaintiff's Exhibit C, supra, after the App. Div.2nd Department (respondent) failed to even mentioned that plaintiff was sentenced as a predicate which was a prejudicial error, even though the matter was preserved and unconstitutionally a prejudicial error.

© And, for the respondents to put the plaintiff down at trial with previously alleged felonies unconstitutionally obtained to get a conviction, it was also a prejudicial error.

POINT IV

THE EXAMPLE OF LAW AND THE ORDER.

Compare **Point I** to People v. Robles, infra, the Appellate Division also claimed: " . . .because illegal sentence was imposed for defendant's prior conviction, it could not serve as predicate felony conviction and, thus, defendant's adjudication as a second felony offender had to be vacated."

Inasmuch, in the Springer-Knight situation the respondents failed to apply the law correctly, and to make matters worst, they applied a 1973 ***ex post facto law*** by using it against plaintiff's alleged 1972 conviction:

> " . . . ***The Supreme Court, Appellate Division [First Department] held that: (1)although issue was not preserved for appellate review, defendant's conviction for fourth-degree criminal possession of a weapon had to be vacated, in the interest of justice, and (2) because illegal sentence imposed for defendant's prior conviction, it could not serve as predicate felony conviction and, thus, defendant's adjudication as a second felony had to be vacated." See People v. Robles, 673 N. Y. S. 2d. 654, 655. Plaintiff's Exhibit "E" in Evidence, herein.***

The Supreme Courts, Appellate Division (respondent Point I), supra, both agreed in the interest of justice and defendants conviction for possession of a weapon was

1.The Book, The Nature of Prejudice by Gordon Alport.

"excessive" but disagreed, when the First Department did the right thing and vacated the defendant's sentence, and the Second Department Appellate Division (respondent) **failed to remedy the Common Sense Investigation (CSI) did not serve the interest of justice when the trial Court admittedly committed a reversible error under color of state and federal laws.**

POINT V

PREJUDICIAL ERRORS occurred AT TRIAL AND SENTENCING REQUIRED THE INDICTMENT TO BE DISMISSED.

Because of the failures in the interest of justice (Point I to IV) the respondents used in 2003 ***prejudicial errors at the trial under Sandoval*** which it tainted the proceedings unconstitutionally and deprived plaintiff the right to due process at trial and sentencing under the equal protection of laws, See Plaintiff's Exhibit D, supra in the Complaint..

(a) If this Court determine that plaintiff's alleged prior convictions were unconstitutionally obtained by respondents, it should also find that they were used unconstitutionally at trial and prejudice the proceedings against him to have fair trial, and sentencing.

(b) Plaintiff was sentence to an enhanced term of imprisonment because of said felonies discussed and the respondents failure to reduce his sentence or a new trial within the statute of limitation appropriately, therefore, the indictment should be dismissed with prejudice.

© If procedures were being followed lawfully plaintiff probably would never have been convicted of any crime or sentenced.

POINT VI

RESPONDENTS SHIFTED TKO AND CSI.

Respondents shifted Technically, Knowingly, Openly (TKO), their burden of proof of the Common Sense, Investigation (CSI) into the ***backdoor mechanism and justice*** to plaintiff which required them to come forward with evidence within their knowledge in this criminal case that raises 4th and 5th Amendments questions.

See Patterson v. New York, 97, S. Ct. 2319 (holding the government "must prove every ingredient of an offense beyond a reasonable doubt," and "it may not shift the burden of proof to the defendant (plaintiff) presuming that ingredient upon proof of the other elements of the offense.")

The respondents failed to prove the TKO in each felony, they stroked the ingredient of CSI in their favor beyond a reasonable doubt, and then shifted their burden of proof onto the plaintiff to prove under CSI the following:

POINT I, III, IV.

The respondents shifted their burden TKO and CSI to dismiss the indictment after they determined that plaintiff had already excessive time imprisoned on the grounds that the trial court committed a reversible error. See People v. Robles, Springer, supra.

POINT II, III, IV

Respondents used a new September 1st, 1973 unconstitutionally against the plaintiff's alleged 1972 conviction in 1985 without fair warning to enhance his sentence TKO and CSI beyond that prescribed by law, which he already served and the indictment should be dismissed in the interest of justice, and prejudice.. See People v 'Springer, Thompson, Babour, Robles, Taylor, supra.

POINT V, VI

(a) On one hand the respondents should agree that they Technically, Knowingly, Openly (TKO), shifted their burden upon the plaintiff to prove that the alleged 2003, 1972 and 1985 conviction were unconstitutionally obtained, and as a result of the (CSI) prejudicial error were introduced at trial in 2003 to impeach plaintiff's credibility which required a reversal of judgment, and conviction. See for example, Taylor, Patterson, supra.

(b) On the other hand, the plaintiff was adjudged a aggregated felon and sentenced as such which required that his sentence be reduce within the statute of limitation required by law.

© As a result of the respondents multiple failures, they failed to prove that plaintiff was guilty of any of the felonies unconstitutionally obtained and was put under a Removal Order from the United States to Panama by the Immigration Department, which in sum all these errors amounted to malicious prosecution, cruel unusual punishment, a denial of due process, and equal protection of under color of federal laws in the United States Guaranteed!.

POINT VII

JUDICIAL DISCRESION, INTEGRITY FOR FAIRNESS IN PROCEEDINGS AND PUBLIC REPUTATION IS NEEDED HERE.

"We're really flying blind on the subject, and that's not a good way to approach the Fourth Amendment and constitutional issues involving privacy."
"It's not one party's government. It's America's government. Those entrusted with great power have a duty to answer to Americans what they are doing," said Sen. Patrick Leaky of Vermont. (Buffalo Newspaper, May 12, 2006 page A 2).

The Backdoor Mechanism.

The respondents has applied a Double Standards and the ***backdoor mechanism of justice*** to rules and procedures because of their one party politics, social class, their management, company rules they serve which as nothing to do with law and order being employees in government who they should be serving the People of the City of New York.

'In certain times like this when you are being conned, robbed, rapped, under minded of what supposed to be your Bill of Rights Guaranteed by the United States Constitution, it's probably best not to cry out for help -- you run the risk of attracting the district attorney with animistic thinking and autistic certainty:

> ***"He (the plaintiff) commenced with his customary assumption of legal knowledge which he does not possess, this product of wasted effort, wasted, wasted, wasted, we are certain for him, wasted to the extent that it involves the time and attention of this Court and of the district attorney is—to be expected (Assistant D.A. William I. Segiel for Eugene Gold, on Appeal before the 2nd Dept. App. Div. 1974)."***

(T)his district attorney permit himself contradictions which is hard to reconcile with one another, first he begin by saying a piece of paper like his is quite harmless, no believer would let himself be robbed of his fate by consideration of a sought put forward in it, he believes that he can change a believer into a unbeliever, nevertheless we the believers are asking him, ***why are you in fact publishing your materials which is very dangerous indeed, that people like you no longer believe in God, now that he throws off his disobedience to you.***

(T)his type of misery, oppression, deviant behavior is being practice in Countries of One Party System like Russia, North Korea, China, Iraq, etc, etc., . The question here is what substitute the district attorneys have for the truth, religion or a conscience (The Book on the subject is ***THE FUTURE OF AN ILLUSSION*** by Sigmund Freud).

(a) These errors go into the internal affairs of the district attorney's office, grossly unsupervised by the publics scrutiny on a local level, the office should be sufficient for the Public Eyes to See what goes on in it or comes out. Those entrusted with great power have a duty to answer to Americans what they are doing.

(b) Increasingly, the respondents (district attorney and the City of New York) here are operating independently from State Laws and in the name of the People, claiming it's for their benefit, while all the time carrying –on their own agenda, and expropriating powers Reserved to the States in deliberate indifference to the People they should be working for, and the 10th Amendment.

The respondents gave the District Attorneys a Blank Check and at some Points therein, they went Mad off with Laws and convictions coming out their office against the plaintiff and there is no CSI into Internal Affairs questioning the politics or what comes out their office.

When your erst-while friends shoots you in the Back (Spinal Cord) from behind causing you to be paralyzed, denies they did it, calls it friendly fire, and then put you down under a Removal Order from the U.S. -- I believe it show you who your real –friends (respondents) are!

Say it ain't so Joe (Eugene, Elizabeth, Charlie)!

CONCLUSION

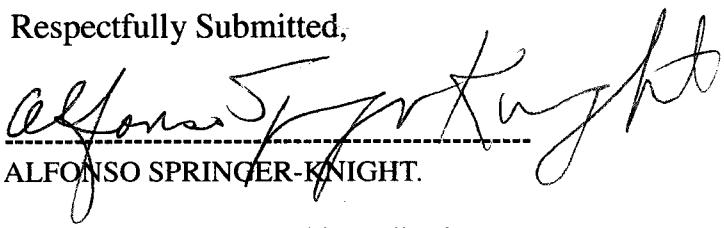
'If a man's –word, Laws, Public Records, Rules, Scrutiny, cannot withstand the pressure of these times – the man, his words, the Laws, Rules, are Mad off, and Woorthless!

Aforementioned, all 3 felonies were unconstitutionally obtained by the respondents alleged Backdoor mechanism of justice which systematically denied the plaintiff, due process and equal protection of laws, Rules, Regulations governing the values, Principles, Respect of justice in the would-be Justice System and for the reasons stated in the attached Complaint and this Memorandum of Law (Point I to VII) (t)his application requesting Declaratory Judgment for the respondents malicious prosecution should be granted on the grounds that:

> *"I've frankly acknowledge to you my conviction(s) and have laid down the grounds which they are founded, the consciousness of good intentions disdains ambiguities, my arguments are open to all and may be judge by all at least it is not being offered in the spirit which will disgrace the cause of truth (Alexander Hamilton, The Federalist Papers)."*

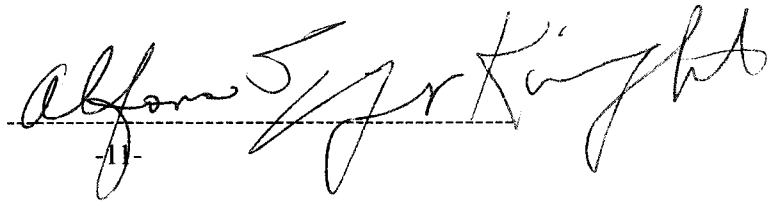
Finally, the record hereinafter indicates that the plaintiff was wrongly and unconstitutionally convicted of these felonies alleged by the respondents and should be dismissed in the interest of justice and for such other and further relief this court may deem just and proper.

Respectfully Submitted,



ALFONSO SPRINGER-KNIGHT.

I'm the undersigned in this cause of action and make this application Pursuant to Title 28 U.S.C. section 1746 based upon information, under the penal ties of perjury based upon information and belief to be true and exact by filing this Complaint, Memorandum of law, and application to proceed in forma pauperis on this 13th of October, in the Year of Our Lord 2009.



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